

**VOLUNTARY CLEANUP CONTRACT  
15-6331-NRP**

**IN THE MATTER OF  
FORMER PHENIX SUPPLY COMPANY WAREHOUSE, GREENVILLE COUNTY  
and  
ARLINGTON PROPERTIES, INC.**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and Arlington Properties, Inc. with respect to the Property located at 220 Academy Street, Greenville, South Carolina. The Property includes approximately 7.3 acres identified by Tax Map Serial Numbers, #0071000100300, #0071000100301, #0071000100500, #0071000102700, and #0071000102702. In entering this Contract, the Department relies on the representations contained in the "Non Responsible Party Application for Voluntary Cleanup Contract" of April 6, 2015, and any amendments thereto, by Arlington Properties, Inc, which is incorporated into this Contract and attached as Appendix A.

**AUTHORITY**

This Contract is entered into pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710 et seq. (as amended); the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-10, et seq. (as amended), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601, et seq., the S.C. State Underground Petroleum Environmental Response Bank Act, S. C. Code Ann. § 44-2-10, et seq. (as amended), and the South Carolina Pollution Control Act, § 48-1-10 et seq.

**DEFINITIONS**

1. Unless otherwise expressly provided in this Contract, terms used herein shall have the meaning assigned to them pursuant to the Brownfields/Voluntary Cleanup

Program, S.C. Code Ann. §44-56-710 et seq. (as amended), and if not set forth therein, shall have the meaning assigned to them pursuant to the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10, et seq. (as amended), the S.C. Pollution Control Act, S.C. Code Ann. § 48-1-10, et seq. (as amended), the S.C. State Underground Petroleum Environmental Response Bank Act, S.C. Code Ann. § 44-2-10, et seq. (as amended) or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601, et seq.

- A. "Arlington" means Arlington Properties, Inc.
- B. "Beneficiaries" means Arlington's Non-Responsible Party lenders, signatories, parents, subsidiaries, and successors, including new purchasers, lessees, and other parties acquiring an interest in any portion of the Property, but only to the extent that such parties have never been a Responsible Party at the Site..
- C. "Contamination" means the presence of a contaminant, pollutant, hazardous substance, petroleum, or petroleum product.
- D. "Contract" means this Voluntary Cleanup Contract.
- E. "Department" means the South Carolina Department of Health and Environmental Control, or a successor agency of the State of South Carolina that has responsibility for and jurisdiction over the subject matter of this Contract.
- F. "Existing Contamination" shall mean any Contamination present on, or under, the Site as of the execution date of this Contract.
- G. "Property" means the real property as described in the Non Responsible Party

Application for Voluntary Cleanup Contract attached as Appendix A, and that is subject to the ownership, prospective ownership, or possessory or contractual interest of Arlington or its Beneficiaries.

- H. "Segregated Sources" means drums, tanks, or similar discrete containers that potentially hold substances that may cause Contamination upon release to the environment.
- I. "Site" means all areas where a contaminant, petroleum, or petroleum product has been released, deposited, stored, disposed of, or placed or otherwise comes to be located; "Site" does not include any consumer product in consumer use or any vessel.
- J. "Waste Materials" means any Contamination-causing solid, semi-solid, or liquid material discarded, buried, or otherwise present on the Property, and may include sludge, slag, or solid waste materials such as empty containers and demolition debris or materials containing asbestos, lead-based paint, or petroleum or other contaminants.

## FINDINGS

- 2. Based on the information known by or provided to the Department, the following findings are asserted for purposes of this Contract:

- A. Owners and Operators: The owners and operators of the Property include the following:

Parcel 0071000100300 (1.835 acres)

A. E. Est. Morris & H. B. McKoy

1950 to 1984

Anderson Auto Parts

1984 to 2001

Reedy River Investments	2001 to present
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Parcel 0071000100301 (0.58 acres)

Anderson Auto Parts	1984 to 1985
Timothy L. Wilson	1985 to 1990
Martha E. Wilson	1990 to 2003
Reedy River Investments	2003 to present

Parcel 0071000100500 (0.117 acres)

Dr. E. E. McClaren	1933 to 1985
Mildred S. McClaren	1985 to 1995
Lenita M. Jones	1995 to 2002
Reedy River Investments	2002 to present

Parcel 0071000102700 (1.9 acres)

Southern Ice Company	1928 to 1979
Anderson Auto Parts	1979 to 2001
Reedy River Investments	2001 to present

Parcel 0071000102702 (2.88 acres)

Anderson Auto Parts	1979 to 1981
Anderson Auto Parts	1981 to 2001
Reedy River Investments	2001 to present

- B. Property and Surrounding Areas: The Property is bounded generally by the Swamp Rabbit Trail, the Reedy River, and commercial properties with Whitmire Street beyond; South Academy Street to the southeast and south with commercial properties beyond; and Westfield Street to the west and northwest with the Salvation Army Croc Community Center and A. J. Whittenberg

Elementary School beyond.

The Property lies in and adjacent to a flood plain of the Reedy River. Areas to the south and east are topographically upgradient from the Property. The Reedy River flows east.

The Property is currently unoccupied. The majority of the Property is grass fields with areas of exposed soil. A wooded area is present along the north Property boundary. No buildings remain. There are remnants of concrete building foundations, brick building materials, and paved site access drives on the Property.

A 1926 city directory indicated the Property was primarily residential. A wholesale provider of dry cleaning solvents (Phenix Supply) was located in a building on the western portion of the Property along Westfield Street from the early 1950s until 1999. Phenix Supply stored perchloroethene (perc) in two aboveground storage tanks (ASTs). In addition to perc, Phenix Supply also stored trichloroethylene (TCE), carbon tetrachloride, Stoddard solvent, and fluouocarbon 113. A coal yard, the Greenville Ice and Fuel Plant, and Anderson Auto Parts #20 were located on the Property along South Academy Street. A wholesale grocery (Smith-Drake Wholesale Grocery), storage yard, and produce retailer were located on the Property along Westfield Street. A NAPA Auto Supply store was constructed on the Property in the early 1980s along Academy Street. A railroad track formerly traversed the central area of the Property. By 2005 all buildings at the Property had been razed.

C. Investigations / Reports: A regulated underground storage tank (UST) system was located at the Smith-Drake Wholesale Grocery at 411 Westfield Street. The Department's UST Permit number was #04481. The single gasoline UST was

removed from the ground in 1991 and a release (#1) was reported to the Department. After additional groundwater assessment the release was given a No Further Action status in 1997.

Anderson Auto Parts #20 had been listed as a small quantity hazardous waste generator in 1994, 2007, and 2009.

Phenix Supply Company reported a release of solvents to the Department in 2002 when perc was found in groundwater samples in the area of the former ASTs. The Department's file number is #56786. Phenix Supply Company was subsequently included in the South Carolina Drycleaning Restoration Trust Fund. Subsequent environmental assessments have identified dry cleaning solvents in soil and groundwater at the Property. Groundwater samples contained concentrations of perc, cis-1,2 Dichloroethene, and TCE exceeding their respective South Carolina State Primary Drinking Water Regulations maximum contaminant levels. Perc contamination in surface and subsurface soils exceeds EPA Regional Screening Levels for Residential and Industrial Soils. A 2005 assessment indicated affected groundwater extends from the central area of the Property toward the north and the Reedy River. Based on the results of stormwater conveyance samples, surface water samples, sediment samples, and pore water samples collected in the Reedy River, both surface water and sediments appear to be impacted from contaminants originating from the Property.

A Phase I Environmental Site Assessment prepared by Synterra (dated March 20, 2015) identified the following recognized environmental conditions:

On-Site

- Soil and groundwater contamination associated with releases from the

Phenix Supply Company.

- The former railroad tracks and previous use of the site to store coal.
- A single pole mounted transformer is located on the site. The transformer is not labeled regarding potential PCB content.

#### Off-Site

- The C H Branyon Pipe Company was previously located southwest of the Property. The facility reported a release (#1) of petroleum from a regulated UST in 1990. The Department's UST Permit number was #04470. After additional groundwater assessment the release was given a No Further Action status in 1997.
- Sites with environmental concerns were identified along Westfield Street, north of the Property, and along Hudson Street, west of the Property. The concerns include soils and groundwater affected by releases of petroleum hydrocarbons from UST systems.

D. Applicant Identification: Arlington is an Alabama business corporation with its principal place of business located at 2117 Second Avenue, North in Birmingham, Alabama. Arlington affirms that it has the financial resources to conduct the response action pursuant to this Contract.

E. Proposed Redevelopment: Arlington will acquire the Property and intends to construct apartment buildings with 215 units.

#### BONA FIDE PROSPECTIVE PURCHASER STATUS

3. Arlington certifies that it is not a current owner of the Property, or parent, successor or subsidiary of a current or past owner of the Property; is not a Responsible Party for the site, or a parent, successor or subsidiary of a Responsible Party for the site; and has not had any involvement with the Property in the past other than activities

performed in anticipation of participation in the Voluntary Cleanup Program. Arlington also certifies that it is eligible to be a Bona Fide Prospective Purchaser for the Property.

#### RESPONSE ACTION

4. Arlington agrees to conduct the response actions specified in the sub-paragraphs below. An initial Work Plan shall be submitted by Arlington, or its designee, within thirty (30) days after the date of execution of this Contract by the Department, or such earlier or later date if approved by the Department's project manager. A Report of the assessment results shall be submitted by Arlington, or its designee in accordance with the schedule provided in the initial Work Plan. Arlington acknowledges that the assessment may find distributions of Existing Contamination requiring additional assessment and/or corrective action on the Property that cannot be anticipated with this Contract. Arlington agrees to perform the additional assessment and/or corrective action consistent with the intended uses of the Property under the purview of this Contract; however, Arlington may seek an amendment of this Contract to clarify its further responsibilities. Arlington shall perform all actions required by this Contract, and any related actions of Arlington's choosing not expressly required by this Contract, pursuant to Work Plans and/or Addenda approved by the Department.

##### A. Work Plan Logistics:

- 1). The Work Plan(s) shall set forth a schedule and methods for assessment and corrective action activities detailed herein.
- 2). The Work Plan(s) shall be submitted to the Department in the form of one hard copy and one electronic copy of the entire Work Plan on a compact disk (in .pdf format).
- 3). All activities undertaken pursuant to this Contract shall be consistent with S.C. statutes, regulations, and permitting requirements (e.g., stormwater



management and waste disposal regulations). Arlington shall identify and obtain the applicable permits before beginning any action.

- 4). The Work Plan(s) shall be in accordance with accepted industry standards and shall be signed and sealed by a Professional Engineer or Professional Geologist duly-licensed in South Carolina.
- 5). The Work Plan(s) shall provide detailed information about the proposed sampling points, collection methods, analytical methods, quality assurance procedures, and other pertinent details of the assessment and/or corrective measures activities consistent with the following:
  - a). Sample collection methodologies shall be consistent with the US EPA Region IV Field Branches Quality System and Technical Procedures.
  - b). All monitoring wells and groundwater sampling points shall be constructed in accordance with 25 S.C. Code Ann. Regs. R.61-71, the South Carolina Well Standards. The Work Plan shall provide sufficient detail to support issuance of the well approvals by the Department.
  - c). The laboratory analyses for samples taken pursuant to the Work Plan are specified in the media-specific sub-paragraphs below, but may include any of the following:
    - i. the full EPA Target Analyte List (TAL);
      - i). EPA Target Analyte List excluding cyanide (TAL-Metals);
    - ii. the full EPA Target Compound List (TCL);
      - i). EPA Target Compound List Volatile Organic Compounds (TCL-VOCs);
      - ii). EPA Target Compound List Semi-Volatile Organic Compounds (TCL-SVOCs);
      - iii). EPA Target Compound List Pesticides (TCL-Pesticides);
      - iv). EPA Target Compound List Polychlorinated Biphenyls (TCL-PCBs).
  - d). All analytical methods shall use appropriate detection levels to allow

comparison to the media-specific screening criteria listed in the "EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites" in effect at the time of sampling. The applicable Protection of Groundwater SSL for soil samples shall be the "MCL-Based SSL", if listed. If the applicable screening criteria are lower than achievable detections levels, the analytical method shall use the lowest achievable detection levels.

- 6). The Work Plan shall include the names, addresses, and telephone numbers of Arlington's consulting firm(s), analytical laboratories, and Arlington's contact person for matters relating to this Contract and the Work Plan.
  - a). The analytical laboratory shall possess applicable Certification defined in 25A S.C. Code Regs. R.61-81, for the test methods specified in the Work Plan.
  - b). Arlington shall notify the Department in writing of any changes concerning the consulting firm(s), contact person(s), or laboratory identified in the Work Plan.
- 7). The Department will notify Arlington in writing of approvals or deficiencies in the Work Plan.
- 8). Arlington, or its designee, shall respond in writing within thirty (30) days of receipt of any comments on the Work Plan by the Department.
- 9). Arlington shall begin implementation of the Work Plan as soon as reasonably possible after receipt of written approval of the Work Plan by the Department.
- 10). Arlington shall inform the Department at least five (5) working days in advance of all field activities conducted pursuant to the Work Plan, and shall allow the Department, or its authorized representatives, to take duplicates of any samples if desired.
- 11). Arlington shall preserve items on the Property that may: 1) provide evidence of a Potentially Responsible Party's involvement at the Site; 2) lead to the

discovery of other areas of Contamination at the Site; or 3) contain environmental information related to the Site. Such items may include drums, bottles, labels, business and operating records, contracts, Site studies, investigations, and other physical or written materials relating to the Site. Arlington shall notify the Department of the location of any such items, and provide the Department with an opportunity to inspect any materials or copy any documents at the Department's expense prior to destruction of said items.

**B. Report Logistics**

- 1). Report(s) shall be prepared in accordance with accepted industry standards and shall be certified by signature and seal of a Professional Engineer or Professional Geologist duly licensed in South Carolina.
- 2). The Report(s) of assessment and/or corrective measures activities shall include a discussion of investigation methods and any deviations from the Department approved Work Plan. The Report shall also include tables and figures to summarize all data, a surveyed map documenting sampling locations, documentation of field observations including well core logs, sample descriptions, field screening results, and all laboratory analytical data.
- 3). All Report(s) shall be submitted to the Department in the form of one hardcopy and one electronic copy of the entire Report on a compact disk (in .pdf format).

**C. Assess Waste Materials and Segregated Sources:**

- 1). Arlington shall characterize for disposal any other Waste Material and Segregated Sources that may be discovered on the Property at any time during assessment, corrective action, or development activities in accordance with applicable regulations.

- 2). Upon discovery of any Segregated Source that has not yet released all contents to the environment, Arlington shall expeditiously stabilize or remove the Segregated Source from the Property.
- 3). Arlington shall immediately notify the Department if a release of Contamination occurs as a result of its assessment, stabilization or removal actions. Arlington shall assess the impact of the release and take necessary action in accordance with a Department approved plan.

D. Conduct a well survey:

- 1). Arlington shall map all public and private wells used for drinking water supply within a one-half mile radius of the Property, and wells used for irrigation or other non-drinking water use within a one-quarter mile radius.
- 2). Arlington shall report sufficient information to the Department to allow the Department to secure permission to sample the wells. At a minimum, this information shall include the: 1) Location of the well; 2) Identity and mailing address of the well owner; and, 3) Telephone number, if publicly available or otherwise known to Arlington, of the well owner or occupant of the residence served by the well.

E. Assess soil quality across the Property:

- 1). Arlington shall collect and analyze a minimum of fourteen (14) soil samples from seven locations on the Property. Arlington shall collect one surface soil sample (0-1 foot below ground surface) and one subsurface soil sample (2 foot minimum depth) from each of the following locations:
  - a). A presumed background location. Each sample shall be analyzed for TAL metals;
  - b). The area of the Coal Yard as shown on the 1961 Sanborn Map. One composite sample of surface soil and one composite sample of subsurface soil shall be collected. Each composite sample shall be

- composed of five aliquots distributed across the Coal Yard area;
- c). The two coal pile areas as shown on the 1961 Sanborn Map. One composite sample of surface soil and one composite sample of subsurface soil shall be collected from each coal pile area. Each composite sample shall be composed of five aliquots distributed across each coal pile area;
  - d). The two railroad lines as shown on the 1961 Sanborn Map. One composite sample of surface soil and one composite sample of subsurface soil shall be collected from each railroad line area southwest of the two coal pile areas. Each composite sample shall be composed of five aliquots distributed across each railroad line area;
  - e). An area near the north corner of Parcel #0071000100301;
- 2). Unless otherwise specified above, each surface soil sample shall be analyzed for TAL-Metals and SVOCs. Each subsurface sample shall be analyzed for TAL-Metals, VOCs and SVOCs. A minimum of one surface and one subsurface sample from one of the two coal pile areas shall be analyzed for the full EPA-TAL and EPA-TCL.
  - 3). Soil quality results shall be compared to the Residential and Industrial Screening Levels and to the applicable Protection of Groundwater SSL.

**F. Assess groundwater quality:**

- 1). Arlington shall assess groundwater quality and flow direction across the Property. Assessment shall include samples from a minimum of four permanent monitoring wells. The wells shall be screened to bracket the water table. Specific locations shall be as follows:
  - a). a location presumed to be hydraulically downgradient of a potential off-site source;
  - b). In the area of the two former perc ASTs at the Phenix Supply Company;
  - c). An area near the north corner of Parcel #0071000100301;

- d). In the area of the two coal pile as shown on the 1961 Sanborn Map.
- 2). Samples from all groundwater monitoring wells shall be analyzed for TAL-Metals, VOCs and SVOCs. In addition, the sample from the monitoring well in the area of the two coal piles shall be analyzed for the full TAL/TCL parameters.
- 3). Groundwater quality results shall be compared to the primary maximum contaminant level (MCL) standards in the South Carolina State Primary Drinking Water Regulations, R.61-58, or, if not specified in R.61-58, to the Regional Screening Tables values for "Tapwater."

G. Evaluate and control potential impacts to indoor air:

- 1). Arlington shall evaluate potential impacts to indoor air if the Department determines significant concentrations of volatile organic compounds are present in the subsurface. The Department will use a modified Johnson and Ettinger Model to determine "Significant concentrations" based on representative soil and/or groundwater quality results reflective of the Property. The model will be constrained towards predicting residential or commercial exposures consistent with the building construction proposed to be used on the Property.
- 2). Arlington's evaluation shall, unless otherwise agreed to by the Department, consist of collection and analysis of soil gas samples from the proposed footprint of buildings to be constructed on the Property over areas potentially subject to Vapor Intrusion. Soil gas samples shall be analyzed for all site related volatile compounds by appropriate methods capable of detecting soil gas concentrations at screening levels indicative of a  $10^{-6}$  risk for shallow gas samples (using an depth-appropriate attenuation factor). The applicable screening concentrations shall be based upon the EPA OSWER "Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils" or supplemental EPA guidance.

- 3). The Department may allow Arlington to implement vapor intrusion control measures in lieu of the above evaluation, or use alternative evaluation methods that, in the Department's sole discretion, offer a similar degree of data usability.
- 4). Arlington shall submit an addendum to the Work Plan detailing the steps for further study and/or remedial or other control management measures to be implemented if the predicted indoor air concentration exceeds a  $10^{-6}$  risk calculated for residential exposure. The Department shall give reasonable consideration of data or other demonstration that shows unacceptable exposures inside the building do not result from the subsurface conditions.

H. Institute reasonable Contamination control measures:

- 1). Arlington shall stabilize or remove from the Property any Segregated Sources of Contamination that have not yet released all contents to the environment.
  - a). The contents of the Segregated Sources shall be properly reused or disposed of in accordance with regulations.
  - b). Arlington shall document the characterization results and ultimate disposition of the materials to the Department within sixty (60) days of removal of any material from the Property.
- 2). Arlington shall take reasonable measures to limit or prevent human exposure to Existing Contamination on the Property
  - a). Corrective measures shall be required for Waste Materials and Contamination present in any media on the Property with concentrations in excess of appropriate human-health risk-based exposure standards with plausibly complete routes of exposure. Known media or Waste Materials that require Corrective Measures include, but may not be limited to, the following:
    - i. Perc contaminated surface and subsurface soils in the area of the

former ASTs at Phenix Supply Company.

- b). The corrective measures shall be proposed in a Corrective Measures Plan to be approved by the Department prior to implementation, and shall be consistent with the intended future use of the Property. Corrective measures may include removal, encapsulation, barriers, or other methods reasonably expected to limit human exposures to the Contamination.
- c). Arlington may request Department approval to conduct a site-specific risk assessment to determine levels of Contamination that are acceptable for the intended use of the Property. The risk assessment shall be conducted in accordance with EPA Risk Assessment Guidance for Superfund. Prior to conducting the risk assessment, Arlington shall submit for Department approval, an overview of risk assessment assumptions including identification of contaminant exposure routes, the type and duration of possible exposures, the magnitude of exposure, and any data gaps that need to be addressed to complete the risk assessment.
- d). Upon completion of any corrective measures, Arlington shall provide a Corrective Measures Report to document satisfactory completion of the corrective measures for Department review and approval prior to obtaining a Certificate of Completion.
- e). In the event that corrective measures include engineering controls that must be maintained or monitored during future use of the Property, a Site Management Plan may be required by the Department. If required, the Site Management Plan shall identify procedures for management of contaminated media that may be encountered as a result of any disturbance of the engineering controls, and for repair or replacement of the engineering controls.

I. Monitor and/or abandon the monitoring wells:

- 1). Arlington shall implement a groundwater-monitoring program if required by



the Department. Continued monitoring requirements will be based on the Department's determination of potential adverse effects on nearby receptors, i.e., individuals that are presently or potentially exposed to Contamination.

- 2). The Department will determine the frequency and duration of the monitoring program on a case-specific basis.
- 3). Arlington shall abandon the monitoring well(s) when the Department determines there are no further needs for wells. The wells shall be abandoned in accordance with R.61-71 of the South Carolina Well Standards.

#### HEALTH AND SAFETY PLAN

5. Arlington shall prepare and submit under separate cover from the Work Plan, a Health and Safety Plan consistent with Occupational Safety and Health Administration regulations. The Health and Safety Plan shall be submitted to the Department in the form of one electronic copy on compact disk (in .pdf format). Arlington agrees that the Health and Safety plan is submitted to the Department only for informational purposes. The Department expressly disclaims any liability that may result from implementation of the Health and Safety Plan by Arlington.

#### PUBLIC PARTICIPATION

6. Arlington and the Department will encourage public participation to implement this Contract as follows:
  - A. The Department will provide notice, seek public comment, and initiate a thirty-day claim contribution notification period in accordance with established procedures consistent with S.C. Code Ann. §44-56-750 upon signature of this Contract by Arlington.
  - B. Arlington shall erect a sign at major entrances onto the Property or other

locations routinely accessible by the public. The sign(s) shall be erected no later than one day after the Department's public announcement about the Contract in a newspaper of general circulation in the community.

- 1). The sign will state "Voluntary Cleanup Project by Arlington Properties, Inc under Voluntary Cleanup Contract 15-6331-NRP with the South Carolina Department of Health and Environmental Control." The sign shall provide a brief description of the scope of activities under the Contract, and contact information, including telephone number and address, for a representative of Arlington. Contact information for the Department shall state "TOLL-FREE TELEPHONE: 1-866-576-3432".
- 2). All sign lettering must be of sufficient size to be legible with un-aided normal eyesight from the point where the public will normally pass by the Property without intruding onto the Property.
- 3). Arlington shall submit photographs of the sign(s) and a Property drawing showing the location(s) of the signs. The photographs shall be submitted to the Department within 10 days of erecting the sign.
- 4). Arlington agrees to revise the sign if the Department determines the sign is inaccurate, not legible, or otherwise ineffectively placed.
- 5). Arlington shall maintain the sign(s) in legible condition and at visible locations throughout the duration of the Contract period until a Certificate of Completion is issued on the Property.
- 6). The sign(s) may be removed to accommodate building or grading activities; however, Arlington shall restore the sign within two (2) days to its original location, or other publicly accessible location upon notice to the Department.

#### PROGRESS UPDATES

7. Arlington shall submit periodic written updates to the Department's project manager until such time as all activities related to the Property are complete pursuant to this Contract. The first update shall be due within 60 days of the execution date of this

Contract and semi-annually thereafter.

- A. The updates may be in summary letter format, but should include information about:
- 1). The actions taken under this Contract during the previous reporting period;
  - 2). Actions scheduled to be taken in the next reporting period;
  - 3). Sampling, test results, and any other data in summary form, generated during the previous reporting period regardless of whether the data was collected pursuant to this Contract; and,
  - 4). A description of any environmental problems experienced during the previous reporting period and the actions taken to resolve them.
- B. The Department's project manager may allow an extended schedule between updates based on case specific conditions.

#### SCHEDULE

8. Arlington shall perform all activities and response actions pursuant to this Contract in an expeditious manner. In the event that circumstances cause a delay in implementation of the response actions, the Department may require implementation of interim measures to stabilize Contamination or prevent unacceptable exposures. Arlington shall implement the interim measures in accordance with a Department-approved plan.

#### DECLARATION OF COVENANTS AND RESTRICTIONS

9. Arlington or its Beneficiaries shall enter, and record, a Declaration of Covenants and Restrictions (Declaration) for the Property if Contamination exceeds levels acceptable for unrestricted use after completing the response actions pursuant to this Contract. Arlington or its Beneficiaries shall enter, and record, a Declaration of Covenants and Restrictions (Declaration) for the Property to prohibit the use of

groundwater on the Property. Contaminant levels acceptable for unrestricted use shall be the Screening Levels for Resident Soil as specified in the EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites for soil, and the primary maximum contaminant level (MCL) standards in the South Carolina State Primary Drinking Water Regulations, R.61-58 for groundwater. The recorded Declaration shall be incorporated into this Contract as an Appendix and shall be implemented as follows:

- A. The Department shall prepare and sign the Declaration prior to providing it to Arlington. An authorized representative of Arlington or its Beneficiaries shall sign the Declaration within ten (10) days of receipt. All signatures shall be witnessed, and signed and sealed by a notary public.
- B. Arlington or its Beneficiaries shall record the executed Declaration with the Registrar of Deeds or Mesne Conveyance for the county where the Property is located.
- C. Arlington or its Beneficiaries shall provide a copy of the recorded Declaration to the Department within sixty (60) days of the Department's execution. The copy shall show the date and Book and Page number where the Declaration has been recorded.
- D. In the event that Contamination exceeds levels acceptable for unrestricted use (Regional Screening Levels for residential use) on a portion of the Property, Arlington or its Beneficiaries may create a new parcel of that portion of the property that will be subject to the Declaration.
- E. The Declaration shall be noted on the master deed of any planned development for the Property and noted, or referenced thereafter, on each individual deed of

property subdivided from the Property and subject to the Declaration.

- F. The Declaration shall reserve a right of entry and inspection for Arlington or its Beneficiaries that may be transferred to another single individual or entity for purposes of compliance monitoring.
  - 1). Arlington or its Beneficiaries shall ensure that the restrictions established by the Declaration remain on any subdivided property.
  - 2). Arlington or its Beneficiaries shall create a procedure to provide a single point of contact responsible for documenting current land use and compliance with the Declaration regardless of the Property's ownership status. The procedure shall be reviewed and approved by the Department before it is implemented.
- G. The Declaration shall provide that the Department has an irrevocable right of access to the Property after Arlington acquires the Property, and such right of access shall remain until remediation is accomplished for unrestricted use and monitoring is no longer required. Such access shall extend to the Department's authorized representatives and all persons performing response actions on the Property under the Department's oversight.
- H. Arlington or its Beneficiaries, or the individual or entity responsible for compliance monitoring, shall annually document the Property's land use and compliance with the Declaration to the Department. The report shall be submitted by May 31<sup>st</sup> in a manner and form prescribed by the Department.
- I. The Department may amend the Declaration in response to changes in law, completion of remedial actions meeting the applicable standards in effect at the time, or if other circumstances of the Property change; however, said amendment shall not be applied retroactively unless expressly provided for in the

legislation. An amendment may strengthen, relax, or remove restrictions based on the Regional Screening Tables in effect at that time; however, the Department shall not impose a more restrictive condition based solely on changes in the Regional Screening Tables. An amendment to the Declaration shall be duly executed and recorded using procedures similar to those detailed above.

#### NOTIFICATION

10. All notices required to be given by either party to the other shall be in writing. Each party shall have a continuing obligation to identify a contact person, whose name, address, and telephone number must be updated to the other party, throughout the term of the Contract. Notices by electronic mail or facsimile shall be acceptable if acknowledged in writing by the recipient; with the delivery date being the date of acknowledgment or earlier date if stated in the acknowledgment. All other forms of notice shall be deemed sufficiently given if delivered at the address shown below, or at such place or to such agent as the parties may from time to time designate in writing, by: 1) regular U.S. Mail by which notice shall be deemed to occur seven (7) days after the postmark date; 2) Certified or Registered Mail by which notice shall be deemed to occur on the date received as shown on the receipt; 3) Commercial delivery service company by which notice shall be deemed to occur on the date received as shown on the receipt; or, 4) hand delivery to the other party.

A. All correspondence, notices, work plans, and reports shall be submitted to:

Mark Berenbrok  
Bureau of Land and Waste Management  
2600 Bull Street  
Columbia, South Carolina 29201

B. All correspondence and notices to Arlington shall be submitted to Arlington's

designated contact person who as of the effective date of this Contract shall be:

Mark Stuermann  
Arlington Properties, Inc.  
2117 Second Avenue, North  
Birmingham, AL 35203

11. Arlington or its Beneficiaries shall reimburse the Department for its public participation costs and for oversight costs of activities specific to this Contract as provided by S.C. Code Ann. §44-56-750 (D). The oversight costs shall include the direct and indirect costs incurred by the Department in implementing the Voluntary Cleanup Program as related to this Contract, and any future amendments thereto, and may include costs related to this Contract and incurred by the Department prior to execution of this Contract. Invoices for oversight costs will be sent to Arlington on a quarterly basis. All costs are payable within thirty (30) days of the Department's invoice submitted to:

Mark Stuermann  
Arlington Properties, Inc.  
2117 Second Avenue, North  
Birmingham, AL 35203

- A. Failure to submit timely payment for costs upon receipt of the Department's invoice is grounds for termination of the Contract pursuant to paragraph 16 herein.

- B. Payment for costs incurred by the Department pursuant to this Contract shall become immediately due upon termination of the Contract by any party pursuant to paragraph 16 herein.

#### ACCESS TO THE PROPERTY

- 12. Arlington agrees the Department has an irrevocable right of access to the Property for environmental response matters after Arlington acquires the Property. This right of access remains until such time as remediation is accomplished for unrestricted use and monitoring is no longer required, and shall extend to the Department's authorized representatives and all other persons performing response actions on the Property under the Department's oversight.

#### CERTIFICATE OF COMPLETION AND COVENANT NOT TO SUE

- 13. A Certificate of Completion shall be issued to Arlington or its Beneficiaries for the Property under this Contract as follows:
  - A. Arlington or its Beneficiaries shall request a Certificate of Completion pursuant to S.C. Code Ann. § 44-56-750(C)(1) after the response actions are completed and any required Declarations are recorded pursuant to this Contract. The request shall be in writing and shall report 1) the amount of soil that was removed or remediated on the Property; and 2) the cost of all environmental work conducted pursuant to this Contract.
  - B. Pursuant to S.C. Code Ann. § 44-56-750(C)(1) the Department shall issue the Certificate of Completion with its covenant not to sue upon determining that Arlington or its Beneficiaries has successfully and completely complied with the Contract and the voluntary cleanup approved under S.C. Code Ann. § 44-56-710 through 760 (as amended).



C. The Department may issue a Provisional Certificate of Completion if the substantive response actions required under this Contract are complete and a required Declaration has been recorded but all actions under this Contract have not been completed due to Property-specific circumstances.

- 1). A Provisional Certificate of Completion will include specific performance standards that Arlington or its Beneficiaries shall continue to meet.
- 2). The Provisional Certificate of Completion may include the Department's covenant not to sue for Existing Contamination; however, said covenant shall be automatically revoked if Arlington or its Beneficiaries do not satisfactorily complete the requirements of the Contract as stipulated in the Provisional Certificate of Completion.

#### ECONOMIC BENEFITS REPORTING

14. Arlington or its Beneficiaries shall report information to the Department that demonstrates that the activities pursuant to this Contract have been beneficial to the State and community. The report shall be submitted within two (2) years after the execution date of this Contract, and annually thereafter until two (2) years after redevelopment of the Property is complete. Arlington shall summarize the new operations at the Property, the number of jobs created, the amount of property taxes paid, and the total amount invested in the Property for property acquisition and capital improvements.

#### CONTRACT OBLIGATIONS AND PROTECTIONS INURE

15. The terms, conditions, obligations and protections of this Contract apply to and inure to the benefit of the Department, Arlington, and its Beneficiaries as set forth below. The following stipulations apply to ensure the transition of all obligations and protections to successive Beneficiaries for any portion of the Property:

A. Arlington or its Beneficiaries shall provide a copy of this Contract and applicable

Appendices to any subsequent Beneficiary. Transmittal of the Contract copy may be via any commonly accepted mechanism.

- B. Arlington and its Beneficiaries shall not allow residential occupancy on any portion of the Property prior to obtaining the Certificate of Completion or a Provisional Certificate of Completion specific to that portion of the Property allowing residential occupancy.
- C. If the Certificate of Completion has not been issued, Arlington or its Beneficiaries shall request approval from the Department prior to transferring the obligations and protections of this Contract to a new person or entity. The Department shall not unreasonably withhold its approval upon receipt of a Non-Responsible Party Application for Voluntary Cleanup Contract documenting that the new person or entity:
  - 1). Is not a Responsible Party for the Site;
  - 2). Has sufficient resources to complete the activities of this Contract;
  - 3). Will not use the Property for activities that are inconsistent with the terms and conditions of this Contract,
  - 4). Will assume the protections and all obligations of this Contract and,
  - 5). Will, in the Department's sole discretion, provide a measurable benefit to the State and the community as a result of this transfer.
- D. If the Certificate of Completion has been issued and the portion of the Property is subject to a Declaration or other ongoing obligation pursuant to this Contract, Arlington or its Beneficiaries shall provide written notification to the Department identifying the new individual or entity within thirty days after the effective date of the ownership change or other possessory transfer of the Property.
  - 1). The notification shall include a signed statement from the new individual or entity that its use of the Property will remain consistent with the terms of the

Contract and the Declaration, and that it will assume the ongoing obligations and protections of this Contract.

- 2). This requirement is waived for an individual or entity acquiring a portion of the Property for individual residential or commercial use provided the Declaration is noted on the master deed for the planned development, and the Department has approved the procedure for a single point of contact responsible for documenting current land use and compliance with the Covenant.

- E. If a Certificate of Completion has been issued and the Property is not subject to a Declaration or other continuing obligation pursuant to this Contract, no notification is required.

#### CONTRACT TERMINATION

16. Arlington, its Beneficiaries, and the Department each reserve the right to unilaterally terminate this Contract by giving thirty days advance written notice to the other party. Termination shall be subject to the following:

- A. The Department may not terminate this Contract without cause and before termination, shall provide Arlington or its Beneficiaries an opportunity to correct the cause(s) for termination, which may include, but is not limited to, the following:

- 1). Failure to complete the terms and conditions of this Contract;
- 2). Change in Arlington's or its Beneficiaries' business activities on the Property or use of the Property that are inconsistent with the terms and conditions of this Contract;
- 3). Failure to submit timely payment for costs upon receipt of the Department's invoice;
- 4). Failure of Arlington or its Beneficiaries to implement appropriate response

actions for additional Contamination or releases caused by Arlington or its Beneficiaries;

- 5). Knowingly providing the Department with false or incomplete information or knowing failure to disclose material information;
  - 6). Failure by Arlington or its Beneficiaries to obtain the applicable permits from the Department for the response actions or other activities undertaken at the Property pursuant to this Contract; or,
  - 7). Failure by Arlington or its Beneficiaries to make material progress toward the expansion, redevelopment, or reuse of the property as determined by the Department upon consideration of Arlington's or its Beneficiaries' marketing efforts, regional economic conditions, and other pertinent information on the Property.
- B. Should Arlington or its Beneficiaries elect to terminate, that party shall certify to the Department's satisfaction that any environmental or physical hazards caused or contributed by Arlington or its Beneficiaries have been stabilized or mitigated such that the Property does not pose hazards to human health or the environment.
- C. Termination of this Contract by any party does not waive the Department's authority to require response action under any applicable state or federal law.
- D. Termination of this Contract by any party does not end the obligations of Arlington or its Beneficiaries to pay costs incurred by the Department pursuant to this Contract. Payment for such costs shall become immediately due.
- E. Upon termination, the protections provided under this Contract shall be null and void as to any party who participated in actions giving rise to termination of the Contract. Revocation of protections shall also apply to that party's lenders,

parents, subsidiaries, and successors, including lessees, heirs, devisees, and other parties taking an interest in the Property through that party who participated in actions giving rise to termination of the contract. The protections will continue for any party who has received protections through a Certificate of Completion for this Contract, and who did not participate in the actions giving rise to the termination.

#### ENTITLEMENT OF PROTECTIONS AND BENEFITS

17. Arlington and its Beneficiaries are entitled to the protections and benefits in regard to Existing Contamination provided by South Carolina statutes as follows:

A. Effective on the date this Contract is first executed by the Department:

- 1). Protection from contribution claims under CERCLA Section 113.42 U.S.C. § 9613 and § 44-56-200, et seq.
- 2). Protection from third-party claims as provided by S.C. Code Ann. § 44-56-750(H).
- 3). Eligibility to file annual application for Voluntary Cleanup Activity Tax Credits pursuant to S.C Code § 12-6-3550.

B. Effective on the date the Certificate of Completion is issued by the Department.

- 1). The Department's covenant not to sue Arlington and its Beneficiaries for Existing Contamination but not for any Contamination, releases and consequences caused or contributed by Arlington or its Beneficiaries.
- 2). Specific tax credits or additional benefits expressly contingent in South Carolina statutes on issuance of the Certificate of Completion.

C. These Protections and Benefits do not apply to any Contamination, releases, and consequences caused or contributed by Arlington or its Beneficiaries. The Department retains all rights under State and Federal laws to compel Arlington

and its Beneficiaries to perform or pay for response activity for any Contamination, releases and consequences caused or contributed by Arlington or its Beneficiaries.

#### RESERVATION OF RIGHTS BY THE DEPARTMENT

18. Nothing in this Contract is intended to be, or shall be construed as, a release or covenant not to sue for any claim or cause of action, past or future, that the Department may have against any person, firm, or corporation other than Arlington and its Beneficiaries. The Department reserves the right to undertake future response actions at the Site and to seek to compel parties, other than Arlington and its Beneficiaries, to perform or pay for response actions at the Site. Nothing in this Contract shall in any way restrict or limit the nature or scope of response actions that may be taken or be required by the Department in exercising its authority under State and Federal law.

#### RESERVATION OF RIGHTS BY ARLINGTON

19. Arlington retains all rights to assert claims in law or equity against any person, company, or entity with respect to the Property, except as limited elsewhere by this Contract. Arlington and its Beneficiaries specifically deny responsibility for response costs or damages resulting from Existing Contamination except for Contamination, releases, and consequences they cause or contribute. However, Arlington and its Beneficiaries agree to undertake the requirements of this Contract.

#### BURDEN OF PROOF

20. Arlington and its Beneficiaries shall have the continuing obligation to demonstrate that any newly discovered Contamination is not caused or contributed by Arlington or its Beneficiaries. Arlington and its Beneficiaries shall make this demonstration to the Department's satisfaction in accordance with State or Federal Law applicable to such newly discovered Contamination. For purposes of this clause, newly

discovered Contamination means finding types of Contamination not previously identified at the Property or substantially higher concentrations of Existing Contamination.

LIMITATION OF CLAIMS BY ARLINGTON AND ITS BENEFICIARIES

21. In consideration of the protections from the Department under this Contract, Arlington and its Beneficiaries agree not to assert any claims or causes of action against the Department or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Property pursuant to this Contract. This limitation shall not extend to any claims or causes of action resulting from the Department's intentional or negligent acts or omissions, or the Department's willful breach of this Contract.

**[Remainder of page left blank]**

SIGNATORS

22. The signatories below hereby represent that they are authorized to and do enter into this Contract on behalf of their respective parties.

**THE SOUTH CAROLINA DEPARTMENT OF HEALTH  
AND ENVIRONMENTAL CONTROL**

BY:

DATE:

\_\_\_\_\_  
Daphne G. Neel, Chief  
Bureau of Land and Waste  
Management

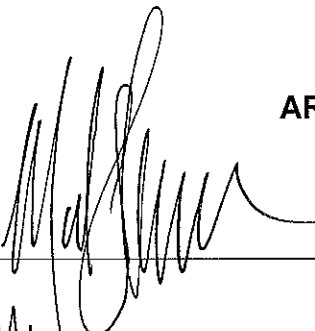
DATE:

\_\_\_\_\_  
Reviewed by Office of General Counsel

**ARLINGTON PROPERTIES, INC.**

BY:

DATE:

  
\_\_\_\_\_

6.23.2015  
\_\_\_\_\_

MARK STORGER V.P.  
\_\_\_\_\_  
Printed Name and Title



# APPENDIX A

Arlington Properties, Inc.

Application for Non-Responsible Party Voluntary Cleanup Contract

April 6, 2015



## Non Responsible Party Application for Voluntary Cleanup Contract

### I. Applicant Information

1. Applicant is a: ☒ Single Entity ☐ Co-Entity (Each Co-Entity must complete Items 1-8)  
2. Applicant Type: ☐ Private Individual /Sole Proprietorship ☒ For-profit Business (Corp., Partnership, etc.) ☐ Tax-Exempt Trust/ Corporation/ Organization ☐ Government / Other Public Funded Entity

3. Applicant's Legal Name Arlington Properties, Inc.

#### 4. Contract Signatures for this Applicant

##### a. Authorized Signatory

Mark Stuermann

Name	Title	Email
<u>2117 Second Avenue, North</u>	<u>Vice President</u>	<u>mstuermann@arlingtonproperties</u>
Address	Phone1	Phone2
<u>Birmingham</u>	<u>AL</u>	<u>35203</u>
City	State	Zip

##### b. Other Signatories ☐ None

Name	Title	Phone	Email	Signature Required On Contract?
		( ) -		<input type="checkbox"/>
		( ) -		<input type="checkbox"/>
		( ) -		<input type="checkbox"/>

#### 5. Physical Location of Applicant's Headquarters

2117 Second Avenue, North

Street address	State	Suite Number
<u>Birmingham</u>	<u>AL</u>	<u>35203</u>
City	State	Zip

#### 6. Mailing address: ☒ Same as Authorized Signatory Go to question 7

Contact person (if different from Authorized Signatory)	Title
<u>Street Number or PO Box</u>	<u>Phone1</u>
<u>City</u>	<u>State</u>
<u>Zip</u>	<u>Phone 2</u>
<u>Email</u>	

#### 7. Company Structure Information ☐ Not-applicable (Local Government, Sole Proprietorship, Private Individual) - Go to Question #8

- a. Company is Incorporated/ Organized/ Registered in Alabama (state)  
b. List all principals, officers, directors, controlling shareholders, or other owners with >5% ownership interest.

Attach additional pages if needed.

Name	Name
<u>William C. Hulsev</u>	

- c. Is the applicant a subsidiary, parent or affiliate of any other business organization not otherwise identified on this form?  
☐ Yes ☒ No

d. If yes, identify all affiliations: \_\_\_\_\_

#### 8. Non-Responsible Party Certification

By signature below, it is affirmed that no person or entity identified anywhere above:

1. Is a current owner of the property
2. Is a Responsible Party for the site
3. Is a parent, successor or subsidiary of any Responsible Party or owner of the property
4. Has had any involvement with the property in the past other than activities performed in anticipation of participation in the Voluntary Cleanup Program

Authorized Signatory [Signature]

Co Signatories \_\_\_\_\_

## II. Property Information

### 9. Location

a. Physical Address 220 Academy Street, Greenville, SC 29601

b. County Greenville

c. ☐ Property is outside any municipal boundaries ☒ Property is inside the municipal limits of Greenville  
(town/city)

### 10. List any Companies or Site names by which the Property is known

Phenix Supply Site

11. Total Size of Property Covered by this Contract 7.3 +/- Acres

12. How many parcels comprise the Property? 5

### 13. Current Zoning (general description)

CBD - Allows dense office, retail, multifamily, and other uses.

14. a. Does the property have any above- or below-ground storage tanks? ☐ Yes ☒ No

b. If Yes, provide information on the number and capacity of the tanks, their contents, and whether they will be retained, or closed and/or removed.

15. Parcel Information <i>Complete the information below for each Parcel (attach additional sheets if needed)</i>			
a. Tax Map Parcel#	<u>0071000102702</u>	a. Tax Map Parcel#	<u>0071000100300</u>
b. Acreage	<u>2.88</u>	b. Acreage	<u>1.835</u>
c. Current Owner	<u>Reedy River Investments</u>	c. Current Owner	<u>Reedy River Investments</u>
d. Owner Mailing Address	<u>28 Gossamer Place</u> <u>Greenville, SC 29607</u>	d. Owner Mailing Address	<u>28 Gossamer Place</u> <u>Greenville, SC 29607</u>
e. Contact Person for Access	<u>Richard Few</u>	e. Contact Person for Access	<u>Richard Few</u>
f. Access Person's Phone #	<u>864-751-7673</u>	f. Access Person's Phone #	<u>864-751-7673</u>
g. Is Parcel Currently Vacant?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	g. Is Parcel Currently Vacant?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
h. Buildings on the parcel?	<input checked="" type="checkbox"/> None	h. Buildings on the parcel?	<input checked="" type="checkbox"/> None
(check all that apply)	<input type="checkbox"/> Demolished/Ruins	(check all that apply)	<input type="checkbox"/> Demolished/Ruins
	<input type="checkbox"/> Intact, To be demolished		<input type="checkbox"/> Intact, To be demolished
	<input type="checkbox"/> Intact, To be re-used		<input type="checkbox"/> Intact, To be re-used
i. Business/facility operations	<input type="checkbox"/> Never Operated on the parcel	i. Business/facility operations	<input type="checkbox"/> Never Operated on the parcel
	<input checked="" type="checkbox"/> Not operating since <u>1990?</u>		<input checked="" type="checkbox"/> Not operating since <u>1990?</u>
	(approx date)		(approx date)
	<input type="checkbox"/> In operation: nature of the business _____		<input type="checkbox"/> In operation: nature of the business _____
a. Tax Map Parcel#	<u>0071000100500</u>	a. Tax Map Parcel#	<u>0071000102700</u>
b. Acreage	<u>.117</u>	b. Acreage	<u>1.9</u>
c. Current Owner	<u>Reedy River Investments</u>	c. Current Owner	<u>Reedy River Investments</u>
d. Owner Mailing Address	<u>28 Gossamer Place</u> <u>Greenville, SC 29607</u>	d. Owner Mailing Address	<u>28 Gossamer Place</u> <u>Greenville, SC 29607</u>
e. Contact Person for Access	<u>Richard Few</u>	e. Contact Person for Access	<u>Richard Few</u>
f. Access Person's Phone #	<u>864-751-7673</u>	f. Access Person's Phone #	<u>864-751-7673</u>
g. Is Parcel Currently Vacant?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	g. Is Parcel Currently Vacant?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
h. Buildings on the parcel?	<input checked="" type="checkbox"/> None	h. Buildings on the parcel?	<input checked="" type="checkbox"/> None
(check all that apply)	<input type="checkbox"/> Demolished/Ruins	(check all that apply)	<input type="checkbox"/> Demolished/Ruins
	<input type="checkbox"/> Intact, To be demolished		<input type="checkbox"/> Intact, To be demolished
	<input type="checkbox"/> Intact, To be re-used		<input type="checkbox"/> Intact, To be re-used
i. Business/facility operations	<input checked="" type="checkbox"/> Never Operated on the parcel	i. Business/facility operations	<input type="checkbox"/> Never Operated on the parcel
	<input type="checkbox"/> Not operating since _____		<input checked="" type="checkbox"/> Not operating since <u>1990?</u>
	(approx date)		(approx date)
	<input type="checkbox"/> In operation: nature of the business _____		<input type="checkbox"/> In operation: nature of the business _____
a. Tax Map Parcel#	<u>0071000100301</u>	a. Tax Map Parcel#	_____
b. Acreage	<u>.58</u>	b. Acreage	_____
c. Current Owner	<u>Reedy River Investments</u>	c. Current Owner	_____
d. Owner Mailing Address	<u>28 Gossamer Place</u> <u>Greenville, SC 29607</u>	d. Owner Mailing Address	_____
e. Contact Person for Access	<u>Richard Few</u>	e. Contact Person for Access	_____
f. Access Person's Phone #	<u>864-751-7673</u>	f. Access Person's Phone #	_____
g. Is Parcel Currently Vacant?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	g. Is Parcel Currently Vacant?	<input type="checkbox"/> Yes <input type="checkbox"/> No
h. Buildings on the parcel?	<input checked="" type="checkbox"/> None	h. Buildings on the parcel?	<input type="checkbox"/> None
(check all that apply)	<input type="checkbox"/> Demolished/Ruins	(check all that apply)	<input type="checkbox"/> Demolished/Ruins
	<input type="checkbox"/> Intact, To be demolished		<input type="checkbox"/> Intact, To be demolished
	<input type="checkbox"/> Intact, To be re-used		<input type="checkbox"/> Intact, To be re-used
i. Business/facility operations	<input type="checkbox"/> Never Operated on the parcel	i. Business/facility operations	<input type="checkbox"/> Never Operated on the parcel
	<input checked="" type="checkbox"/> Not operating since <u>1990?</u>		<input type="checkbox"/> Not operating since _____
	(approx date)		(approx date)
	<input type="checkbox"/> In operation: nature of the business _____		<input type="checkbox"/> In operation: nature of the business _____

### III. Property Redevelopment

16. Describe the intended re-use of the property:  
(attach additional sheets if necessary)

215 multifamily units.

17. a. Will the future use include any chemical processes, petroleum or chemical storage and handling, on-site waste disposal, or generate any hazardous substances? ☐ Yes ☒ No  
b. If Yes, identify the substances and discuss steps that will be taken to prevent their release to the environment.

18. Will redevelopment lead to the creation of permanent jobs on the property? ☒ Yes Anticipated Number 5  
☐ No

19. Projected Increase to the Tax Base as a result of this redevelopment: \$ \$392,000

20. a. Will there be Intangible benefits from this redevelopment such as:  
☐ LEED, Earth Craft, EnergyStar, or similar certification of Sustainable Development  
☒ Creation / Preservation of Green Space on the Property  
☐ Deconstruction/ Recycling of demolition or building debris  
☐ Other \_\_\_\_\_

b. Please Describe:

21. Anticipated date of closing or acquiring title to the property 08 / 01 / 2015

22. Redevelopment Certification  
By signature below, the applicant(s) affirm that their proposed use and activities will not knowingly aggravate or contribute to existing contamination or pose significant human health or environmental risks on the property.



Signature(s)

### IV. Project Management And Financial Viability (Co-Entities, refer to instruction sheet)

23. Environmental Consulting Firm  
☐ None as of this application date

Company \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

Project Contact1 \_\_\_\_\_

S.C PE/PG Reg. # \_\_\_\_\_

Phone1 \_\_\_\_\_

Phone 2 \_\_\_\_\_

email \_\_\_\_\_

Project Contact 2 \_\_\_\_\_

S.C PE/PG Reg. # \_\_\_\_\_

Phone1 \_\_\_\_\_

Phone 2 \_\_\_\_\_

email \_\_\_\_\_

24. Legal Counsel (Optional)

Firm

Attorney

Phone1

Phone 2

Street Number or PO Box

City

State

Zip

email

25. Applicant's Billing Address ☒ Same as Contact person in #6 above Go to question #26

Financial Contact

Title

Company

Phone

Address

City

State

Zip

26. Financial Viability

By signature(s) below, the applicant agrees to:

1. Pay the Department's costs upon receipt of invoices for implementing the Voluntary Cleanup Program for this Property, and
2. Provide financial statements, if requested, to document financial viability to conduct the response actions on the Property.

☐ Waiver Requested (Check Box If applicable)

The applicant is a Local Government or qualifies as a 501(c) Non-Profit Organization, and requests waiver of some Departmental costs of implementing this contract.

Signatures

V. Application Completion (The following are required along with this form. Check applicable boxes)

27. The Legal Description of the Property is attached as a: ☐ Plat Map ☐ Metes and Bounds Text ☒ Both

28. The Phase I Environmental Site Assessment Report is attached as a:

☒ New report completed in the past six months by Synterra

(Name of Environmental Firm)

☐ Older report updated in the past six months by \_\_\_\_\_

(Name of Environmental Firm)

29. Environmental sampling data and other reports: (check one)

☐ The Applicant is not aware of any environmental testing on the property

☒ The Applicant believes the Department already has all environmental data in its files on: Penix Supply Property

☐ The Following reports are attached: \_\_\_\_\_ (Site Name)

Report Date

Report Name

Environmental Firm

30. Mailing addresses of Former Owners, Operators and other Potentially Responsible Parties:(check one)

☐ Enclosed with this Application as an Attachment

☒ Will be submitted along with (or before) the signed contract

31. The applicants attest by signature below that this application is accurate to their best knowledge. Furthermore, the applicants request DHEC evaluate the Property for inclusion in the Brownfields Voluntary Cleanup Program and draft a Non-Responsible Party Contract for the Property.

Signature(s)

This Section for Department Use Only

Assigned File Name

Eligible for NRP Contract

Y N

Assigned File Number

Assigned Contract Number

## APPLICATION INSTRUCTIONS

**General Instructions:** The Application should be completed electronically. The application may be may saved with partial information, and reopened at a later time for completion.

The form is largely self-explanatory; however, the following information is further clarification for some questions. Additional assistance is available through the Voluntary Cleanup Program at the toll-free telephone number (866) 576-3432.

- #1. Applicant Information:** Check Sole Entity if the contract will be between DHEC and one party (usually an individual, most partnerships, businesses, government bodies, etc.).

Check Co-Entity if the contract will be between DHEC and multiple parties with no controlling interests over each other (Example: A Public-Private Partnership agreement between a local government and a business to redevelop a site). Each Co-Entity must submit its own copy of page 1 with the information specific to their business/corporate structure, etc.

- #3. Applicant's Legal Name:** Enter the full Legal Name of the party that will be entering the contract. If the party is incorporated as a business or non-profit organization, enter the name as recorded in the Articles of Incorporation/Organization. If the entity is a department or sub-division of a government body, include the name of the controlling government body. If the business will operate under a different name, enter that information in #7.d.

- #4. Contract Signatures:** The "Authorized Signatory" is a person who may legally bind the applicant in contractual matters. Identify any other persons that may sign contracts for the entity.

In some business structures (e.g., General Partnerships, Joint Ventures, etc.) multiple persons are required to sign contracts. If applicable, check the box by those names that must sign the contracts in addition to the Authorized Signatory. The Department will not take further steps to implement a contract until all Required Signatures are affixed.

- #5. Physical Address for Applicant:** The address must be the physical location of the applicant's business or headquarters. A post office box is not sufficient.

- #8. Non-Responsible Party Certification:** Each person identified as an Authorized Signatory and as a Required Signature, if any, should sign the application.

**Co-Entities:** Each Co-Entity should have the Authorized Signatory and all Required Signatures, if any, sign #8 only on the page specific to their organization.

- #9. Property Location:** If no address is assigned, identify the road on which the property is located, and the distance and direction from the nearest identifiable crossroads.

- #10. Property Names:** Enter the name that will be used in correspondence with the Department to refer to the Property, and any other names that may be commonly known to the local community because of past operations on the property.

- #13. Current Zoning:** Describe the zoning in terms such as "high-density residential", "retail", "commercial", and "light industrial" since there is no uniform numerical classification across the state.

- #15. Parcel Information:** Include all information for each parcel that will be acquired. Repeat information may be omitted (i.e., the same person currently owns multiple parcels).

If there are more than six parcels, the application may be saved electronically with different file names for as many times as needed for the number of parcels. Attach printouts of the pages with the additional parcels to the final application.

- #26. Financial Viability:** The Department will charge for oversight costs including time to review file materials and prepare a contract. The applicant is obligated to pay the accrued costs if a contract is successfully negotiated (i.e. signed by the applicant and the Department).

The Department may allow Local Governments and qualified Non Profit Organizations to waive payment of some oversight costs. The Department's decision to waive payment will be determined on a case-specific basis, and may be rescinded after due notice to the parties as specified in the contract.

**#27. Property Legal Description:** A legal description or surveyed Plat map must be included with the application. The Plat Map may be a copy of a survey filed with the county or un-filed copy completed by a SC- licensed Surveyor.

**#28 Phase I Environmental Site Assessment Report:** The Phase I Report should be consistent with the US EPA's "*All Appropriate Inquiries Rule*". The Phase I must be completed within the 6 months prior to the application. Environmental consultants may update older reports as long as the update is less than 6 months old.

Phase I reports paid for by other parties can be submitted, but may be subject to intellectual property claims. Applicants may need permission from the environmental consultants that originated the report before submitting it to the Department.

The US EPA may require another update from Local Governments and Non-Profit Organizations as a condition of receiving Brownfields grant money.

**#30 Mailing Addresses of Potentially Responsible Parties:** All former owners, operators and other PRPs ( Potentially Responsible Parties) should be identified if their affiliation with the Property occurred anytime after the probable contamination.

The last known mailing address of the PRPs or of their registered agent(s) should be provided to the Department; however, the application may be filed before this information is compiled. The Department will not place a contract on Public Notice or execute it until sufficient information is provided to allow the Department to notify the PRPs of the contract.

#### **Filing Mechanics**

The form should be printed out after completion and signed by all persons identified as the "Authorized Signatory" or as "Signature Required". The form should have original signatures for Question #8 on page 1, Question #22 on page 4, and Questions #26 and #31 on page 5.

Co-Entity Applicants should sign Question #8 only on page 1 specific to their organization and on other pages as indicated above.

The completed form and all supporting documentation should be submitted to:  
Robert F. Hodges, Jr., PG  
Brownfields Voluntary Cleanup Program  
Mailing Address:  
Bureau of Land and Waste Management, SCDHEC  
2600 Bull Street  
Columbia SC 29201  
Physical Address (For Hand-Delivery during normal office hours 8:30 AM to 5:00 PM):  
8911 Farrow Road (Stern Building)  
Columbia SC 23203

There is no application fee.